



Planning

Ms Debra Dawson
Sydney Harbour Foreshore Authority
Level 6, 66 Harrington Street
THE ROCKS NSW 2000

Notice of Modification of Development Consent

Issued under section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*, and pursuant to section 96(1A).

Reference No.	10/10864-1
Modification Application Number	DA 166-11-2006 MOD 6
Development Application Number	SHFA DA 166-11-06

Application Details

Name of Applicant	Debra Dawson
Address of Applicant	Level 6, 66 Harrington Street, The Rocks
Address of land to be developed	100 George Street, The Rocks

Approved Development	Outdoor footpath seating on George Street and part of Argyle Street
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Original DA Determination Date:	3 January 2007
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Proposed Modification	Additional outdoor seating area at 100 George Street, The Rocks.
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Determination Date	22 June 2010
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Determination	Approval, subject to amendments
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Details of conditions	See attached schedule
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Note:

- (1) This notice should be read in conjunction with the approved plans endorsed as part of this determination.
- (2) This consent becomes effective from the endorsed determination date.
- (3) This consent to the modification application does not affect the time period in which this consent will lapse.

Other approvals

Nil

Right of appeal

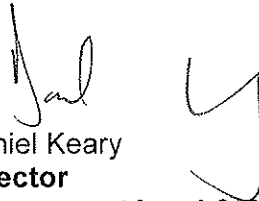
If you are dissatisfied with this decision section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Further information

If you have any queries regarding this matter, please contact Planner on (02) 9228 6410 or email ellie.caldwell@planning.nsw.gov.au

Signed

Under delegated authority from the Minister for Planning, and pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979*, I hereby modify the consent in accordance with the attached schedule.



Daniel Keary
Director
Government Land & Social Projects

Sydney 22 JUNE 2010

SCHEDULE

ADDRESS:	100 George Street, The Rocks
MODIFICATION NUMBER:	DA 166-11-2006 MOD 6
DA CONSENT NUMBER:	SHFA DA 166-11-06
FILE NUMBER:	10/10864-1
DESCRIPTION OF MODIFICATION SOUGHT:	Additional outdoor seating area for 100 George Street, The Rocks

The application to modify the above development consent has been approved by the Director, Government Land & Social Projects, as delegate of the Minister for Planning, subject to amendments, under the *Environmental Planning and Assessment Act 1979*, as follows:

Amended Conditions

- Condition A1 has been amended to reflect the amended plan number references.
- Condition A3 has been amended to remove 'La Mela' from the condition to allow this consent to relate to 100 George Street, The Rocks.

The modified development consent conditions are attached with additional wording shown in ***bold and italics*** with deletions shown ~~struck through~~.

All other conditions remain as previously approved.

NOTE:

Any reference to the Sydney Harbour Foreshore Authority, the Foreshore Authority or the Authority in this determination is to be read as the Department of Planning, its predecessors or relevant consent authority commencing 1 May 2009.

Any reference to the Planning Assessment Manager of the Sydney Harbour Foreshore Authority in this determination is to be read as the Director, Government Land and Social Projects commencing 25 January 2010.

CONDITIONS OF CONSENT
DA 166-11-06
VARIOUS LOCATIONS ALONG GEORGE STREET & JACK MUNDEY PLACE
THE ROCKS

[As amended by MOD166-11-06(1) on 29 January 2007]
[As amended by MOD166-11-06(2) on 30 April 2007]
[As amended by MOD 166-11-06(3) on 22 January 2008]
[As amended by MOD 166-11-06(4) on 4 September 2008]
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
[As amended by DA 166-11-2006 MOD 6 on 22 June 2010]

A APPROVED DEVELOPMENT

- A1** The development shall be generally in accordance with development application number DA 166-11-06 submitted by the applicant on 10 January 2007 and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Drawing number	Name	Date
DA01	Globe Street to Argyle Street	23/10/2006
DA02	Argyle to Atherden Street	23/10/2006
DA03	Atherden to Gloucester Street	23/10/2006
DA04	Fortune of War + Ama Roma	23/10/2006
DA05	Bakers Oven	23/10/2006
DA06	Phillips Foote + Rocks Café + Zia Pina	23/10/2006
ROX-494-Tradeout A	91 George Street, The Rocks Revised Outdoor Seating Plan	22/07/2008
DA10	Swagmans Post + Irish Tea Shop	23/10/2006
DA11	Mercantile Hotel	3/01/2007
DA01	Fortune of War	Jan 2007
392-DA-1001	113-115 George St – The Copenhagen	20/03/2007
914HP-DA-2001	Hospital Precinct, The Rocks, Plan View	12/11/2007
914KL-DA-2001	The Rocks Precinct Area, Kendall Lane, Plan View	21/11/2007
914AP-AR-2001	Atherden Precinct, The Rocks	12/11/2007
410-DA-2001	131-135 George St, The Rocks, Fortune of War Hotel, Trading Out Plan	12/11/2007
398-DA-2001	121 George St, The Rocks, The Bakers Oven, Trading Out Plan	12/11/2007
392-DA-2001	115-113 George St, The Rocks, The Captain Tench Arcade, Trading Out Plan	21/11/2007
ROX 389-DA-1000	105-107 George St, The Rocks, The Rockpool Restaurant, Lease Plan Ground Floor	10/5/2007
374-DA-1001	93 George St, The Rocks, Phillips Foote	12/11/2007
500-DA-1001	99 George St, The Rocks, The Rocks Café	12/11/2007

497-DA-2001	93 George St, The Rocks, the Zia Pina Restaurant	12/11/2007
122-DA-1000	Argyle Street The Rocks Jack Munday Place DA Outdoor Seating	15/06/2009
488-DA-1000	87-89 George Street The Rocks The Orient Hotel Outdoor Seating Plan	15/06/2009
479-DA-2001	83 George St, The Rocks, G Day Café	12/11/2007
458-DA-2001	55 George St, The Rocks, Old Holiday Inn Trading Out Plan	21/11/2007
434-DA-1001	33-41 George St, The Rocks, Sergeant's Majors Row	12/11/2007
461-DA-1000	67 George Street, The Rocks The Observer Hotel DA Outdoor Seating	15/6/2009
410-DA-2000	143 George Street, The Rocks The Russell Hotel Outdoor Seating Plan	15/06/2009
DA-01	100 George Street, Schematic Outdoor Seating Area	March 2010

Except as amended by the following conditions:

[As amended by MOD166-11-06(1) on 29 January 2007]
[As amended by MOD166-11-06(2) on 30 April 2007]
[As amended by MOD166-11-06(3) on 22 January 2008]
[As amended by MOD166-11-06(4) on 4 September 2008]
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
[As amended by DA 166-11-2006 MOD 6 on 22 June 2010]

- A2** The approved plan DA01 and DA07 shall be amended to clearly state that the kerb clearance for the outdoor seating area adjoining to 'Costi Seafood' shall be 800mm.
- A3** Notwithstanding Condition A1 above and the detail shown on Plan DA01, this consent does not relate to the existing outdoor seating areas on the eastern side of George Street in front of Goosestep **and** the Rocks Deck Café and La Mella.
[As amended by MOD166-11-06(1) on 29 January 2007]
[As amended by DA 166-11-2006 MOD 6 on 22 June 2010]
- A4** Any outdoor seating areas along George Street may subsequently be approved by way of a modification application to this consent.
- A5** The conditions of this consent do not prevent or limit additional trade out areas or times from being approved for 'special event' days such Australia Day and New Year's Eve or for any other occasion that may be the subject of a separate development consent.
- A6** This approval includes the provisions of umbrellas for the purposes of providing sun shading within some outdoor seating areas as shown on the approved plans. Any umbrellas that are provided are to be positioned and held in place with weighted bases for a trial period of six months, after which any umbrellas may be provided with in ground sockets.
- A7** No new changes or fixtures other than those shown on the stamped plans are to be installed without prior approval from the Sydney Harbour Foreshore Authority.
- A8** Prior to the installation of the proposed partitions, details of all signage including business identification signage and event signage, shall be submitted to the Planning Assessment Manager for approval.

[As amended by MOD166-11-06(3) on 23 January 2008]

B CONDITIONS TO BE MET PRIOR TO THE USE OF AN OUTDOOR SEATING AREA

- B1** Any outdoor seating area must be the subject of a licence agreement to occupy the public domain to be obtained from the Sydney Harbour Foreshore Authority. The licence agreement is to be maintained and all required fees are to be paid to the Authority.
- B2** The applicant shall hold public liability insurance for the outdoor seating area and provide a Certificate of Currency to the Sydney Harbour Foreshore Authority prior to the commencement of the use of the outdoor seating area. The public liability insurance must make appropriate provision for indemnification of the Sydney Harbour Foreshore Authority against all claims that may arise as a consequence of the outdoor seating area.
- B3** All approved outdoor seating areas are to be designated by positioning in-ground survey markers to delineate the area, or similar as may be otherwise approved by the Planning Assessment Manager.
[As amended by MOD166-11-06(3) on 23 January 2008]
- B4** All tables and chairs to be located within the outdoor seating area are to be in accordance with The Rocks Policy for Commercial Outdoor Seating. Approval is to be obtained from the Planning Assessment Manager to the specific chair and table selection prior to any outdoor furniture occupying the public domain.
- B5** Removable umbrellas may be permitted where shown on the approved plans. The umbrellas are to be square sized at 2.5 metres, natural grey to Australian Standard Colour N23 or similar. Approval to any umbrellas is to be obtained from Planning Assessment Manager prior to any umbrellas occupying the public domain.
- B6** A license from the Liquor Administration Board shall be obtained prior to the service of alcohol within any outdoor dining area.

C CONDITIONS TO BE MET DURING THE OPERATION OF THE CONSENT

- C1** Trading in approved outdoor seated areas is limited to the trading hours of the associated tenancy, and are not to extend beyond 12 midnight on any day. The new outdoor seating area at 89 George Street (The Orient Hotel) shall be limited to Mondays to Thursdays. No outdoor dining is permitted on Fridays, Saturdays or Sundays.
[As amended by MOD166-11-06(3) on 23 January 2008]
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
- C2** The primary purpose of the approved outdoor seating area is for dining. Each outdoor table shall contain a sign indicating 'Patron Restaurant Seating Only'. The serving of alcohol in outdoor seating areas shall comply with the provisions of the Liquor Act 2007 and shall be ancillary to the dining function of the premises.
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
- C3** The sale and consumption of any food or beverage is not permitted outside the designated outdoor seating area identified on the approved plan.
- C4** All furniture items (including umbrellas, umbrella stands, tables, chairs and partitions) shall be located within the area delineated by the in-ground survey markers and shall be stored within the building's premises at the conclusion of business hours.
[As amended by MOD166-11-06(3) on 23 January 2008]

[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]

- C5** The approved outdoor seating areas are only to accommodate furniture approved under Conditions B4 and B5 above, and under no circumstances are the areas to include, service bars, waiter stations, menu boards, signage of any kind (excluding any signage approved on the proposed partitions under Condition A8), heaters, lights, speakers, bollards, ropes, planter boxes or similar elements.
[As amended by MOD166-11-06(3) on 23 January 2008]
- C6** All entrances and exits to the premises or any adjacent premises must be kept clear of obstructions.
- C7** At all times, all outdoor furniture and all patrons within an outdoor seating area are to maintain a minimum footpath width of 2.5 metres, and a minimum clearance of 800 mm to an adjacent kerb line.
- C8** There is to be no third party advertising within the approved outdoor seating areas.
[As amended by MOD166-11-06(2) on 30 April 2007]
- C9** No amplified music or entertainment shall be played in or directed towards any outdoor dining area.
- C10** Table service shall be the principal mechanism for the licensee providing meal/beverage service to patrons in outdoor seating areas. Exemption is given to 111-115 George Street, The Rocks (Royal Copenhagen Ice Cream) for the provision of table service.
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
- C11** All beverages are to be opened at the point of sale.
- C12** No paper or plastic plates or cups are to be used within the outdoor seating area. Exemption is granted to 111-115 George Street, The Rocks (Royal Copenhagen Ice Cream). Sydney Harbour Foreshore Authority shall provide a bin for the disposal of paper or plastic plates/cups/utensils/napkins and the like.
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
- C13** All furniture associated with the approved trading areas must be removed within one hour of at the end of the day's trade leaving an unencumbered footpath. Under no circumstances are ANY furniture items to remain in the public domain outside of the adjacent tenancy's restaurant trading hours.
[As amended by MOD166-11-06(3) on 23 January 2008]
[As amended by DA 166-11-2006 MOD 5 on 29 October 2009]
- C14** Notwithstanding Condition C13 above, all umbrellas are to be removed from the outdoor seating area by 4pm on any day.
[As amended by MOD166-11-06(3) on 23 January 2008]
- C15** When not in use, all furniture items (including chairs, tables, partitions, umbrellas and umbrella stands) shall be located within the building.
[As amended by MOD166-11-06(3) on 23 January 2008]
- C16** The operator of the associated tenancy that uses the outdoor seating area shall be responsible for controlling the outdoor furniture and all associated material in the event of adverse weather conditions, in particular should adverse wind conditions likely result in material being blown onto the footpath or road, such material is to be removed from the outdoor seating area.

[As amended by MOD166-11-06(3) on 23 January 2008]

- C17** The trade out area and adjacent premises shall be kept clean and tidy at all times and all rubbish is to be removed from the immediate area throughout the evening. The applicant shall bear the responsibility for fully clearing and cleaning of the trade out area and the adjacent public domain at the completion of the trade out period.
- C18** All requirements of the Food Act 2003, and the Food Regulation 2004, are to be complied with at all times.
- C19** The applicant shall comply with all conditions of the liquor licence as well as the conditions of this development consent.
- C20** The applicant shall ensure that the use of any area shall not give rise to a nuisance or offensive noise as defined in the Protection of the Environment Operations Act 1997, to adjoining properties or the public.
- C21** A copy of this development consent and the approved plan shall be retained on the premises. These documents shall be made available on request by the NSW Police or to officers of the Sydney Harbour Foreshore Authority.

INTEGRATED DEVELOPMENT – GENERAL TERMS OF APPROVAL

Nil.

PRESCRIBED CONDITIONS

Nil.

The reasons for the imposition of the above conditions are:

- To confirm the details of the application and plans submitted by the applicant, and to ensure that the structure is not altered without approval.
- To comply with the provisions of the *Environmental Planning and Assessment Act 1979* and the Environmental Planning and Assessment Regulation 2000.
- To ensure compliance with relevant planning controls.
- To ensure any outdoor furniture is of a standard and quality appropriate to the precinct.
- To ensure outdoor furniture is removed to allow greater public access at times when the areas are not in use and to remove umbrellas when not required for sun shading.
- To ensure the use of any outdoor area is managed and controlled so as to protect the amenity of the local environment, residents and adjoining landowners.